

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 1540 of 1998

Between:

Madasi Ravi, S/o Pochalu,
R/o Warangal.

..... PETITIONER

AND

- 1 The Chief Engineer, Panchayat Raj, Hyd.
- 2 The Superintending Engineer, Panchayat Raj, Warangal.
- 3 The Executive Engineer, Panchayat Raj Division, Mulugu, Warangal Dist.
- 4 The Deputy Executive Engineer, Panchayat Raj Dept., Sub-Division,

Chityal, H.Q at Parkal, Warangal Dist.

- 5 The Presiding Officer, Industrial Tribunal-cum-Labour Court, Warangal.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ particularly one in the nature of writ of certiorari and after calling for the records from 5th respondent and quash the Award in I.D.No.62/92, dt. 5-2-1994, and consequently direct the respondents 1 to 4 to reinstate the petitioner with continuity of service, back wages and all other attendant benefits.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondent Nos.1 to 4: G.P. for Panchayat Raj

Counsel for the Respondent No.5: GP FOR LABOUR

The Court made the following :

ORDER:

This writ petition is directed against the award passed by the Industrial Tribunal-cum-Labour Court, Warangal, in I.D.No.62 of 1992 dated 5.2.1994 wherein the petition filed by the workman under Section 2-A(2) of the Industrial Disputes Act, hereinafter referred to as 'the Act', was dismissed holding that the petitioner is not entitled for any relief.

It is the case of the petitioner that he worked continuously from 23.9.1986 to 26.11.1990 with the respondent organization. His services were terminated orally. Therefore, he raised a dispute in I.D.No.62 of 1992 under Section 2-A(2) of the Act before the Industrial Tribunal-cum-Labour Court, Warangal. The respondent management filed a rejoinder contending that the petitioner did not work continuously as N.M.R in the place of his father from 23.9.1986 to 26.11.1990 as claimed by him. Therefore, the question of terminating his service in violation of the provisions of Section 25-B of the Act does not arise and the workman does not deserve any relief.

To substantiate his claim before the Tribunal, the petitioner workman examined himself as W.W.1. However, no documents were marked. On behalf of the respondent management, M.W.1 was examined and Ex.M-1 was marked. After detailed consideration of the entire evidence on record, the Tribunal came to the conclusion

that it is for the petitioner to establish and prove beyond doubt that his service was continuous for not less than 240 days in the respondent Department, but the petitioner failed to produce such kind of evidence in the court and it is for the petitioner to prove that he has got continuous service of not less than 240 days in the preceding 12 months. In the absence of such evidence, it cannot be said that it is obligatory on the part of the respondents to comply with the provisions of Section 25-F of the Act. Therefore, the claim was dismissed. Aggrieved by the same, this writ petition is filed.

The learned counsel for the petitioner strongly contends that the petitioner worked in place of his father from 23.9.1986 to 26.11.1990. Since he was not given opportunity for leading evidence, he could not do so. The management has not understood properly as to the service rendered by the petitioner in place of his father from 23.9.1986 to 26.11.1990. The service of the petitioner from 26.5.1990 to 25.6.1990 as N.M.R has been recognized by the management and the service rendered by him, in fact, from 23.9.1986 to 26.11.1990 was not recognized by the management since the management feels that his father was alive by that time.

Though such a plea was not taken by the learned counsel for the petitioner in the writ petition, he advanced his argument orally before this Court and further strongly contended that the petitioner had completed 240 days and an opportunity to prove the same may be given. It seems the petitioner worked in place of his father initially and in the meanwhile his father expired and thereafter the petitioner worked up to November, 1990. It seems the service rendered by the petitioner in place of his father, who was also N.M.R was not taken into consideration by the management. Therefore, I am of the view that the petitioner deserves to be given an opportunity to prove that he worked for more than 240 days in the respondent organization as N.M.R. Therefore, the award of the Industrial Tribunal-cum-Labour Court, Warangal, in I.D.No.62 of 1992 is set aside and the matter is remitted back to the Tribunal for fresh consideration. The Tribunal shall give an opportunity to both parties and decide the matter on

merits within a period of six months from the date of receipt of this order.

The writ petition is, accordingly, disposed of. No order as to costs.

(C.V.RAMULU, J.)

20.6.2005

kpr

To

- 1 The Chief Engineer, Panchayat Raj, Hyderabad.
- 2 The Superintending Engineer, Panchayat Raj, Warangal.
- 3 The Executive Engineer, Panchayat Raj Division, Mulugu, Warangal Dist.
- 4 The Deputy Executive Engineer, Panchayat Raj Dept., Sub-Divisional,

Chityal, H.Q at Parkal, Warangal Dist.

- 5 The Presiding Officer, Industrial Tribunal-cum-Labour Court, Warangal.

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